

## **REMARKS**

Entry of the foregoing amendment is respectfully requested. The Amendment is believed to place the application in condition for allowances and is, therefore, appropriate under Rule 116. The Amendment does not raise any new issues and, thus, does not require an additional search by the Examiner. The issues raised by the amended claim 1 are the same issues raised by the presently pending claims 1 and 4-5.

The Amendment was not earlier presented because applicant did not appreciate the Examiner's ground for rejection until they were clarified in the final Office Action.

By the present amendment, claims 4-6 are canceled, and claims 1 is amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

The Examiner rejected Claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Gray U.S. Patent No. 3,842,596 (Gray). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of Kreibich et al. U.S. Patent No. 4,259,198 (Kreibich) and Burns et al., U.S. Patent 4,431,649 (Burns). Claim 6 was rejected as being unpatentable over Gray in view of Burns. It is respectfully submitted that Claims 1-3 are patentable over the cited references.

Claim 1 recites a housing (11) an energy-driven operational mechanism (12-15) located in the housing, and at least one latent heat accumulator (20) arranged on the power tool for accumulating heat during operation of the operational mechanism and for releasing the heat after an operational cycle has ended. Claim 1 further recites that the latent heat accumulator comprises a chamber (21) and at least one of latent heat storable material and latent heat storable mixture. Still further claim 1 recites that the latent heat storable material and/or mixture is selected from a group consisting of (i) paraffin ( $C_n H_{2n+2}$ ), (ii) salts having a melting temperature between 20° and 160°C, and (iii) hydrated salts having a melting temperature between 20° and 160°C.

The foregoing novel features of the present invention are not disclosed in the prior art, including Gray and Kreibich. Gray does not disclose a latent heat accumulator that accumulates heat during operation of the operational mechanism and releases the heat after an operational cycle has ended (“Accumulator” — one that accumulates, “accumulate — to gather; amass — The American Heritage College Dictionary, Houghton Mifflin Co., 2002).

Gray discloses a process in which heat is continuously absorbed and simultaneously released. No accumulation takes place.

As it has already been discussed previously, according to case law, in order to meet a claim limitation, the prior art must (1) perform the identical function recited in the claim limitation and (2) perform that function using the structure disclosed in the specification or an equivalent structure. *Cf. Carroll Touch Inc. v. Electro Mechanical Sys. Inc.*, 15 F.3d 1573, 1578 27 USPQ2d 1836, 1840 (Fed. Cir. 1994); *Valmont Indus. Inc. v. Reinke Mfg. Co.*, 983 F.2d 1039, 1042 25 USPQ2d 1451, 1454 (Fed. Cir. 1993); *Johnston v. IVAC Corp.*, 885 F.2d 1574, 1580, 12 USPQ2d 1382, 1386 (Fed. Cir. 1989).

In Gray, the process and the structure that performs the function of preventing overheating is clearly not an equivalent of the process and the structure recited in Claim 1.

Further, even assuming, *arguendo*, that Gray discloses a “latent heat accumulator, it would not be obvious to provide in Gray a solid heat accumulating material of Kreibich. Gray requires use of liquid so that uniform annulus is formed at the evaporator end to insure uniform evaporation as soon as operational mechanism begins to operate to insure a vapor flow to condenser. Clearly, the latent heat accumulator of Kreibich that accumulates heat for several hours would not be suitable for use in Gray. The latent heat material of Kreibich would not fulfill the requirement set in Gray to transport heat in a vapor phase. Please note that vaporization, which is not disclosed in Kreibich, constitutes the essence of the Gray invention (column 3, lines 35-36).

Further, Kreibich does not disclose the latent heat materials recited in claim 1.

In view of the above, it is respectfully submitted that combination of Gray and Kreibich is not obvious, and the present invention, as defined by claim 1, is patentable over said combination and is allowable.

Claim 2-3 depend on claim 1 and are also allowable.

### CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the

Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

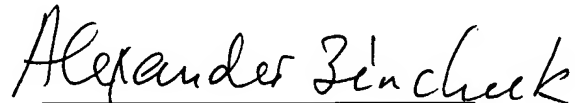
Respectfully submitted,

A handwritten signature in cursive script, reading "Alexander Zinchuk", written in black ink.

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 1, 2005.

A handwritten signature in cursive script, reading "Alexander Zinchuk", written in black ink.

Alexander Zinchuk